

## **FACTSHEET**

**TITLE:** **CHANGE OF ZONE NO. 05043**, from R-4 Residential District to R-T Residential Transition District, requested by Brian D. Carstens and Associates on behalf of Gregg and Cindy Trautman, on property generally located southwest of the intersection of South 37<sup>th</sup> Street and "O" Street.

**STAFF RECOMMENDATION:** Denial.

**SPONSOR:** Planning Department

**BOARD/COMMITTEE:** Planning Commission  
Public Hearing: 06/22/05  
Administrative Action: 06/22/05

**RECOMMENDATION:** **Approval** (8-1: Sunderman, Carlson, Larson, Carroll, Krieser, Taylor, Esseks and Bills-Strand voting 'yes'; Pearson voting 'no').

1. The purpose of this change of zone request from R-4 Residential District to R-T Residential Transition District is to allow the construction of a 5,000 sq. ft. office/medical building located southwest of the intersection of South 37<sup>th</sup> Street and "O" Street (Use Permit No. 05005).
2. The staff recommendation of **denial** is based upon the "*Analysis*" as set forth on p.4-5, concluding that the request is not in conformance with the Comprehensive Plan. The existing houses serve a need for low to moderate priced housing. These houses are in need of repair, but they could be replaced with duplexes or single family homes. Approval of this change of zone could lead to other property owners south of the B-1 district along "O" Street to ask for R-T zoning, which would result in more commercial intrusion into the neighborhood.
3. The applicant's testimony and testimony in support on behalf of the Witherbee Neighborhood Association is found on p.7. The letter in support from the Witherbee Neighborhood Association is found on p.13. The applicant indicated that the plans have been revised to address the concerns of the neighborhood and a revised site plan was submitted at the public hearing for the associated use permit. The applicant also requested that the associated use permit be amended to add a condition that prohibits a child care center, at the request of the Witherbee Neighborhood Association.
4. There was no testimony in opposition; however, the record consists of one letter in opposition (p.14).
5. On June 22, 2005, the majority of the Planning Commission disagreed with the staff recommendation and voted 8-1 to recommend **approval** (Pearson dissenting). The majority of the Planning Commission found that the proposed building in the associated use permit will be compatible with the other neighborhood buildings and that this is a special situation which works better for the neighborhood and which has neighborhood support.
6. On June 22, 2005, the Planning Commission also voted 8-1 to adopt Resolution No. PC-00937 approving the associated Use Permit No. 05005.

**FACTSHEET PREPARED BY:** Jean L. Walker

**DATE:** July 5, 2005

**REVIEWED BY:** \_\_\_\_\_

**DATE:** July 5, 2005

**REFERENCE NUMBER:** FS\CC\2005\CZ.05043

## LINCOLN/LANCASTER COUNTY PLANNING STAFF REPORT

for JUNE 22, 2005 PLANNING COMMISSION MEETING

**PROJECT #:** Change of Zone No.05043

**PROPOSAL:** From R-4, Residential to R-T, Residential Transition

**LOCATION:** Southwest of the intersection of S. 37<sup>th</sup> St. and "O" St.

**LAND AREA:** 0.563 acres, more or less

**CONCLUSION:** Not in conformance with the Comprehensive Plan.

<b>RECOMMENDATION:</b>	Denial
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### GENERAL INFORMATION:

**LEGAL DESCRIPTION:** Lots 18 & 19, Block 9, Young's Hyland Park, located in the NE 1/4 of Section 30-10-07, Lancaster County, NE

**EXISTING ZONING:** R-4, Residential

**EXISTING LAND USE:** Single-family residential

### **SURROUNDING LAND USE AND ZONING:**

North:	B-1 Local Business	Office building
South:	R-4 Residential	Single-family
East:	R-4 Residential	Single-family
West:	R-4 Residential	Single-family

**ASSOCIATED APPLICATIONS:** Use Permit #05005

### **HISTORY:**

January 22, 2003 Special Permit #1997 to operate an early childhood care facility on a portion of Lots 18 and 19, Block 9, Young's Hyland Park Addition was denied by the Planning Commission.

January 22, 2003 Alley vacation #02020 to vacate the east 115' of the east-west alley from 35<sup>th</sup> St. to 37<sup>th</sup> St. was denied by the Planning Commission.

October 3, 1990 Use Permit #51 for a 4,725 sq. ft. office building in an R-T District at S. 56<sup>th</sup> St. & "N" St. was approved by the Planning Commission.

- |                  |   |
|------------------|---|
| January 22, 1990 | Change of Zone #2510 from R-2 to R-T at S. 56 <sup>th</sup> St. and “N” St. was approved by the City Council.   |
| February 1970    | Special Permit #489 for a parking lot in a residential zone on a portion of Lot 19, Block 9, Young’s Hyland Park Addition was approved by the City Council.               |
| October 13, 1969 | Special Permit #480 for a parking lot in a residential district on a portion of Lots 9, 10 and 11, Block 2 Young’s Hyland Park Addition was approved by the City Council. |

This area was zoned B-Two-family dwelling prior to the 1979 zoning update.

## **COMPREHENSIVE PLAN SPECIFICATIONS:**

“The community continues its commitment to neighborhoods. Neighborhoods remain one of Lincoln’s great strengths and their conservation is fundamental to this plan. The health of Lincoln’s varied neighborhoods and districts depends on implementing appropriate and individualized policies. The Comprehensive Plan is the basis for zoning and land development decisions. It guides decisions that will maintain the quality and character of the community’s established neighborhoods.” (F-15)

“Maximize the community’s present infrastructure investment by planning for residential and commercial development in areas with available capacity. This can be accomplished in many ways including encouraging appropriate new development on unused land in older neighborhoods, and encouraging a greater amount of commercial space per acre and more dwelling units in new neighborhoods.” (F-17)

“Affordable housing should be distributed throughout the region to be near job opportunities and to provide housing choices within every neighborhood.” (F-18)

“Encourage different housing types and choices, including affordable housing, throughout each neighborhood for an increasingly diverse population.” (F-18)

“Construction and renovation within the existing urban area should be compatible with the character of the surrounding neighborhood.” (F-18)

The Land Use Plan shows this area as urban residential. (F-25)

“The land use plan displays the generalized location of each land use. It is not intended to be used to determine the exact boundaries of each designation. The area of transition from one land use is often gradual. The Comprehensive Plan also encourages the integration of compatible land uses, rather than a strict segregation of different land uses. (F-27)

“Expansion of existing commercial and industrial uses should not encroach on existing neighborhoods and must be screened from residential areas.” (F-49)

“The priority in older areas should be on retaining areas for residential development. (F-49)

“Affordable housing should be distributed throughout the region to be near job opportunities and to provide housing choices within every neighborhood. Preserve existing affordable housing and promote the creation of new affordable housing throughout the community. (F-65)

“Promote the preservation, maintenance and renovation of existing housing and neighborhoods throughout the city, with special emphasis on low and moderate income neighborhoods.” (F-68)

“Promote the continued use of single-family dwellings and all types of buildings, to preserve the character of neighborhoods and to preserve portions of our past.” (F-68)

Guiding Principles for Existing Neighborhoods include: (F-69)

1. Encourage a mix of compatible land uses in neighborhoods, but similar uses on the same block face.
2. Require new development to be compatible with character of neighborhood and adjacent uses.
3. Encourage retention of single family uses in order to maintain mix of housing.

**UTILITIES:** This area is served with all utilities.

**TRAFFIC ANALYSIS:** S. 37<sup>th</sup> St. is a local street.

**AESTHETIC CONSIDERATIONS:** A 5,000 square foot building will be out of character with the existing houses. The surrounding houses are less than 1,000 sq. ft. in size.

**ALTERNATIVE USES:** Alternative uses include leaving the two houses, replacing the houses with new single family houses or constructing a duplex on each lot.

**ANALYSIS:**

1. This application request is for a change of zone from R-4, Residential to R-T, Residential Transition on two lots. Associated with this request is Use Permit #05005 to construct a 5,000 sq. ft. office/medical building. This request is not in conformance with the Comprehensive Plan.
2. Section 27.28.020(a) of the zoning ordinance states:  
An R-T Residential Transition designation may be granted to any property abutting upon, or directly across a street from and fronting the same street as property zoned B-1, B-2, B-3, H-2, H-3, H-4, I-1, and I-2. Each building to be located within a Residential Transition District shall have:
  - (1) A two and one-half inch in twelve inch pitched roof or steeper;
  - (2) A nonreflective exterior siding material which is or simulates wood, stucco, brick, or stone;
  - (3) A nonreflective roof material which is or simulates asphalt or wood shingles, tile, or rock;
  - (4) No air conditioners on the roof.

The area within the requested change of zone abuts a B-1 District.

3. The area of application is served by a local street. An R-T district allows uses ranging from office buildings to financial institutions to early childhood care facilities. A local street is not designed for commercial traffic. All of the R-T districts, except one, either take access to or abut an arterial street. The increased traffic caused by changing the land use from residential to commercial should not intrude into the neighborhood.
4. The R-T district is intended to be used as a transition from commercial to residential. The alley at this location serves as a buffer between the commercial building to the north and the houses to the south.
5. The R-T district allows a building to be a maximum of 5,000 sq. ft. The surrounding houses are all less than 1,000 sq. ft. A 5,000 sq. ft. building would be out of character with the neighborhood.
6. The R-T district would be an encroachment into the existing residential neighborhood. The Comprehensive Plan promotes the preservation of neighborhoods, especially in low and moderate income neighborhoods.
7. The applicant's letter states that nine multi-family units could be built on the site of the two existing homes. This is in error. Under the R-4 zoning district, the maximum dwelling units would be two on each lot.
8. The applicant's letter states that both houses are in serious need of repair. The removal of houses in need of repair is not a reason to change the zoning from residential to commercial. The existing houses serve a need for low to moderate priced housing. If it is not financially sound to improve the existing homes, they could be replaced with duplexes or single family houses.
9. If this change of zone request is approved, it could lead to other property owners south of the B-1 district along "O" St. to ask for R-T zoning providing more commercial intrusion into the neighborhood.

Prepared by:

Tom Cajka  
Planner

**DATE:** June 6, 2005

**APPLICANT:** Brian D. Carstens  
Brian D. Carstens & Associates  
601 Old Cheney Rd. Suite "C"  
Lincoln, NE 68512  
(402) 434-2424

**OWNER:** Gregg & Cindy Trautman  
8001 Brookfield Dr.  
Lincoln, NE 68506  
(402) 488-3971

**CONTACT:** same as applicant

**CHANGE OF ZONE NO. 05043  
and  
USE PERMIT NO. 05005**

**PUBLIC HEARING BEFORE PLANNING COMMISSION:**

June 22, 2005

Members present: Sunderman, Carlson, Larson, Carroll, Krieser, Taylor, Pearson, Esseks and Bills-Strand.

Staff recommendation: Denial.

Ex Parte Communications: None.

Proponents

1. **Brian Carstens** appeared on behalf of the applicants, Gregg and Cindy Trautman, who recently purchased the property (office building and two houses south of the alley) at 37<sup>th</sup> & O Streets in December of 2004. There is a special permit for the existing parking lot dating back to the 1970's. The applicants met with the Witherbee Neighborhood Association in April and May. In response to the neighborhood, the applicant has provided more parking in the parking lot to eliminate or reduce the possibility of parking on the street. The neighborhood association was also concerned about screening and lighting, and the applicant has addressed those concerns as well. The applicant also found that it would not be economical to rehab the houses. It is anticipated that the R-T building would attract a dentist or medical office to bring service to the neighborhood. Carstens submitted a motion to amend requested by the neighborhood to add a note stating that early childhood care facilities would be prohibited.

2. **Fred Freytag**, President of **Witherbee Neighborhood Association**, submitted a letter in support, as long as there is no child care facility. The Witherbee neighborhood is a mixture of residential homes with different levels of rent and home ownership. The two homes purchased by the applicant are really in need of some repair and the neighbors believe that what could be built there if the houses are removed would be much larger and much more disruptive to the neighborhood. The neighborhood believes that the office building would make a nice transition. The O Street traffic has gotten louder.

Freytag noted that the staff report refers to the loss of homes; however, he suggested that there have been a number of churches buying up entire blocks and making parking lots out of them. This proposal is something that will bring jobs into a neighborhood and it provides an extra buffer from "O" Street.

There was no testimony in opposition.

Staff questions

Carlson asked staff to discuss the traffic generation from the medical use as he believes that medical office use typically generates quite a few trips. Tom Cajka of Planning staff stated that the traffic counts are averaged, based on the land use. As stated in the staff report, the medical office average is 181 trips per day as compared to 23 trips per day for duplexes or 55 trips per day for general office.

Medical/office increases traffic and requires additional parking spaces. Staff believes that a lot of the traffic that would want to go west on O Street would funnel back through the neighborhood over to 33<sup>rd</sup> Street.

#### Response by the Applicant

Carstens stated that the applicant did some informal research based on the County Assessor web page as to the size of the 50 nearest homes – 35% were 1,000 sq. ft. and less and 65% were larger than 1,000 sq. ft. The staff report makes it sound like everything in the neighborhood was the lesser square footage.

Carstens submitted a revised site plan showing an indentation in the front elevation of the building on the 37<sup>th</sup> Street side making it look like two buildings from the street. He also pointed out that the existing parking lot special permit had no setbacks to the neighborhood to the west and this proposal provides the 20' requirement in R-5 zoning.

Carroll inquired whether they would be sharing parking with the office building to the north. Carstens stated that three stalls are required to be shown for the office building to the north.

As far as traffic concerns, Carstens noted that during the day a lot of people do turn left and get out onto O Street, but the applicant does not believe it is going to be a concern and it was not a concern to the Witherbee Neighborhood Association.

#### **CHANGE OF ZONE NO. 05043**

#### **ACTION BY PLANNING COMMISSION:**

June 22, 2005

Pearson moved denial, seconded by Carlson.

Pearson referred to the staff report analysis and believes that moving a medical office building into a narrower street off of a neighborhood is serious business, particularly when we know that medical office buildings have a fairly high trip count. Her office is not far from this location and she can attest that O Street is very busy a great deal of the time, so she can't imagine people going south to M to go to 33<sup>rd</sup>. She believes it is too close to the residential area.

Carlson commented that he appreciates the staff's position on this and the references to the Comprehensive Plan to support the recommendation of denial. However, the neighborhood association and the surrounding neighbors have been contacted and involved. In principle, he agrees with the staff, but in hearing the testimony in this situation, he believes they may have found a solution that might work here.

Pearson noted that the developer said they could construct multi-family housing, but in reality they could only put in two duplexes. The neighborhood may be afraid of a larger residential use and higher density, but she does not believe that is the case.



Esseks commented that he is interested in the preservation of older neighborhoods and this looks like an example of representation of the neighborhood. It seems to be a plausible type of protection in terms of a buffer. There are no property owners speaking against it and with the neighborhood association support, he is inclined to support this innovative way of dealing with possible neighborhood blight.

Carroll commented that he believes the staff has done a good job of pointing out the reasons for denial, but he agrees that this is a special situation that just works better for the neighborhood in this one area. Making the building look like it belongs in the neighborhood is important and that is why he would be in favor.

Motion to deny failed 1-8: Pearson voting 'yes'; Sunderman, Carlson, Larson, Carroll, Krieser, Taylor, Esseks and Bills-Strand voting 'no'.

Taylor moved approval, seconded by Carroll and carried 8-1: Sunderman, Carlson, Larson, Carroll, Krieser, Taylor, Esseks and Bills-Strand voting 'yes'; Pearson voting 'no'. This is a recommendation to the City Council.

**USE PERMIT NO. 05005**

**ACTION BY PLANNING COMMISSION:**

June 22, 2005

Taylor made a motion for approval, with conditions, with the amendment and revised site plan submitted by the applicant, seconded by Carroll.

Pearson finds it interesting that they want a medical office building but no children.

Motion for conditional approval, with amendments, carried 8-1: Sunderman, Carlson, Larson, Carroll, Krieser, Taylor, Esseks and Bills-Strand voting 'yes'; Pearson voting 'no'. This is final action unless appealed to the City Council within 14 days.



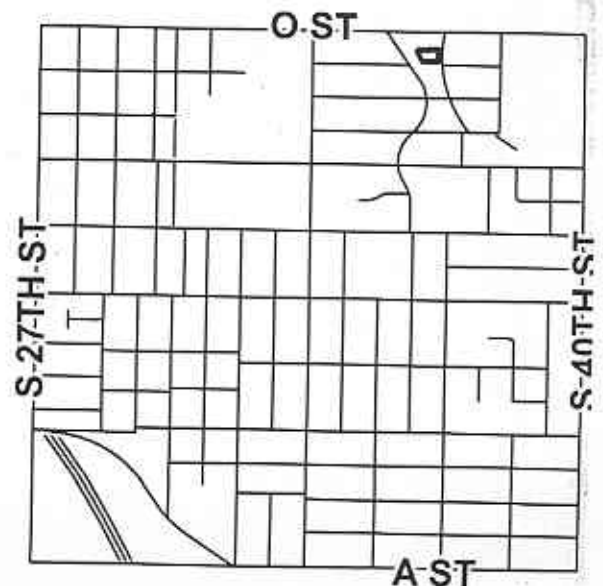
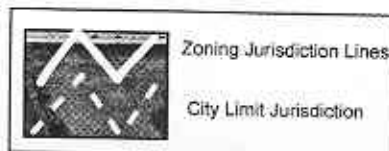
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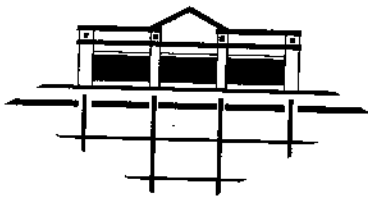
## Change of Zone #05043 S. 37th & 'O' St.

### Zoning:

R-1 to R-8	Residential District
AG	Agricultural District
AGR	Agricultural Residential District
R-C	Residential Conservation District
O-1	Office District
O-2	Suburban Office District
O-3	Office Park District
R-T	Residential Transition District
B-1	Local Business District
B-2	Planned Neighborhood Business District
B-3	Commercial District
B-4	Lincoln Center Business District
B-5	Planned Regional Business District
H-1	Interstate Commercial District
H-2	Highway Business District
H-3	Highway Commercial District
H-4	General Commercial District
I-1	Industrial District
I-2	Industrial Park District
I-3	Employment Center District
P	Public Use District

One Square Mile  
Sec. 30 T10N R7E

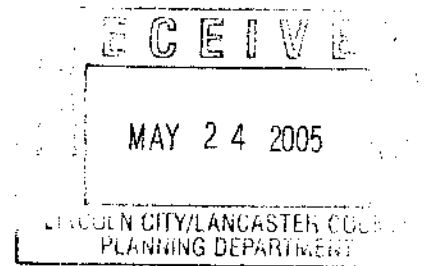




**BRIAN D. CARSTENS AND ASSOCIATES**  
LAND USE PLANNING RESIDENTIAL & COMMERCIAL DESIGN  
601 Old Cheney Road, Suite C Lincoln, NE 68512 Phone: 402.434.2424

May 24, 2005

Mr. Marvin Krout, AICP  
Director of Planning  
City of Lincoln/ Lancaster County  
555 South 10<sup>th</sup> Street  
Lincoln, NE 68508



RE: TRAUTMAN OFFICE PROJECT- 37<sup>th</sup> and 'O' STREETS  
CHANGE OF ZONE FROM 'R-4' TO 'R-T' W/ USE PERMIT

Dear Marvin,

On behalf of Gregg and Cindy Trautman, I am submitting the above mentioned zoning applications for your review.

The Trautman's recently purchased the office building on the southwest corner of south 37<sup>th</sup> and 'O' Streets and the two existing single family residences to the south. Both houses are in serious need of repair.

Gregg had asked me what could be built on the site. After reviewing the zoning ordinance, it was determined that 9 multi-family dwelling units could be built on the site of the two existing homes. After recent controversy in the Witherbee Neighborhood over multi-family projects, it was decided not to pursue that idea.

After looking at the zoning pattern of the existing land uses, I discovered that the office building to the north was zoned 'B-1'. 'R-T' zoning is permitted adjacent to and across from existing 'B-1' zoning.

After discussing the idea, we prepared a preliminary site plan and presented it to the Witherbee Neighborhood Association. They were excited about the project. They asked us to address parking lot lighting, and finding additional on site parking.

After reviewing an as built survey, we made a few changes to the site plan and incorporated their concerns as well. We presented the revised plan to the Neighborhood Association again. It was well received again. After further discussions with Fred Freytag, the President of the Witherbee Neighborhood Association, he agreed to make a formal request for a motion to support the Trautman Office Project as submitted to them.

Page 2.

They will be having another association meeting the first week of June. We will submit the letter of support at that time.

Therefore we submit the applications for a change of zone and the associated use permit for your review. The site contains a 5,000 square foot office/ medical building with a total of 28 parking stalls. Three of the new stalls will be for the existing office building to the north, to meet the parking requirements for that building.

No waivers are requested at this time. We will be meeting all of the conditions as outlined in the zoning ordinance in regards to building materials, roof pitch, lighting, mechanical equipment locations, etc.

Please feel free to contact me if you have any further questions.

Sincerely,



Brian D. Carstens

cc. Gregg and Cindy Trautman  
Fred Freytag- Witherbee Neighborhood Association

Enclosures: 24 copies of sheet 1 of 3  
8 copies of sheet 2 and 3 of 3  
Application for a Change of Zone  
Application for a Use Permit  
Certificate of Ownership  
Application Fees  
8-1/2" x 11" reductions of the plans

**Witherbee Neighborhood Association**

Fred Freytag - President  
530 So 38<sup>th</sup>  
Lincoln, NE 68510



June 22, 2005

Lincoln / Lancaster County Planning Commission.  
555 S 10<sup>th</sup> Street  
Lincoln, NE 68508

Re: Change of Zone No. 05043 and Use permit No. 05005

Dear Commission Members:

The Witherbee Neighborhood Association voted unanimously at their last meeting on June 2<sup>nd</sup>, 2005 to support the Change of Zone No. 05043 from R-4 to R-T for the property generally located at the southwest intersection of 37<sup>th</sup> and O Street, Lot 18 & 19, Block 9, Young's Hyland Park.

The WNA also voted unanimously to support the Use Permit No. 05005 as long as it excludes the use of child daycare.

Sincerely,

  
Fred Freytag  
President



"Troy Burgess"  
<tburgess@premiumcomposit  
es.com>

06/20/2005 01:16 PM

To <plan@lincoln.ne.gov>

cc "Roy Burgess" <roy@lindustries.com>

bcc

Subject Change of Zone No. 05043

To the Planning Commission

I am opposed to the change of zone and use of the property legally described as Lots 18 and 19, Block 9, young's Hyland Park, Located in the NE 1/4 of Section 30-10-7, Lancaster County, Nebraska

The notice says this is generally located at So. 37th and "O". This is not the case. It is located at So. 37th and "N". This is a residential neighborhood and is used as such.

37th and "O" is zoned B-1 and 35th and "O" is zoned O-2.

I am sure the action is caused by the property being cheaper than the property that is already Zoned such that it would fit this use.

With the property at 48th and "O" vacant and Property on 35th and "O" that appears to being under utilized for the purpose zoned, I see no reason to rezone this Residential Property and bring increased traffic to a neighborhood

meant for families. This action would increase risk to these families and reduce the property value of the rest of the neighborhood. If more advanced notice had been

given I would have adjusted my schedule to attend the meeting. Unfortunately I'm out of town and can't attend the meeting.

Sincerely

Troy Burgess  
Owner of 3710 "N" Street